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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 KENNETH R. ARONSON,

12 Petitioner,

13 v.

14 STATE OF WASHINGTON,

15 Respondent.

16 CASE NO. 3:19-cv-05463-RJB-JRC

17 REPORT AND
18 RECOMMENDATION

19 NOTED FOR: OCTOBER 4, 2019

20 This habeas corpus petition has been referred to the undersigned Magistrate Judge.

21 Petitioner, proceeding *pro se*, filed the petition pursuant to 28 U.S.C. § 2254. The Court
22 recommends that the action be dismissed. Petitioner has failed to comply with a Court order and
23 failed to prosecute this action.

24 BACKGROUND

25 On May 21, 2019, petitioner filed his proposed petition. Dkt. 1. Petitioner did not file an
26 application to proceed *in forma pauperis* (“IFP”) or pay the filing fee. Dkt. 1; Dkt. 5; Dkt. 8. On
27 May 24, 2019, the Clerk’s Office instructed petitioner to pay the filing fee or file the proper IFP

1 form and provided petitioner with the correct form. Dkt. 5; Dkt. 5-1. On May 29, 2019, the
2 Clerk's Office filed a "notice to filer" informing petitioner the proposed petition was deficient
3 and was not properly signed. Dkt. 6. On June 2, 2019, petitioner filed a praecipe to attach the
4 dated signature page to his proposed petition. Dkt. 7. On June 3, 2019, the Clerk's Office again
5 instructed petitioner to pay the filing fee or file the proper IFP form by July 3, 2019 and provided
6 petitioner with the correct form. Dkt. 8.

7 On July 23, 2019, the Court ordered petitioner to submit the proper IFP form or pay the
8 filing fee by August 23, 2019. Dkt. 9. The Court advised petitioner that if he failed to comply
9 with the Court's Order, the Court would recommend that this case be dismissed. *Id.* Petitioner
10 has failed to pay the filing fee or submit the proper IFP form. *See* Dkt.

11 DISCUSSION

12 Federal Rule of Civil Procedure 41(b) provides for involuntary dismissal if a petitioner
13 fails to prosecute or to comply with a court order. The dismissal counts as an adjudication on the
14 merits unless the Court provides otherwise. To date, petitioner has failed to submit the proper
15 IFP form or pay the filing fee. *See* Dkt. Petitioner has failed to comply with the Court's order and
16 has also failed to prosecute this action. Petitioner does not show good cause for not complying
17 with the Court's order. Accordingly, the Court recommends this action be dismissed without
18 prejudice

19 CONCLUSION

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21 The Court recommends that this action be dismissed for failure to comply with a Court
22 order. Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), petitioner shall have fourteen
23 (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure
24 to file objections will result in a waiver of those objections for purposes of de novo review by the

1 district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit imposed by Fed. R.
2 Civ. P. 72(b), the clerk is directed to set the matter for consideration on **October 4, 2019** as
3 noted in the caption.

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5 Dated this 10th day of September, 2019.
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J. Richard Creatura
United States Magistrate Judge